

1 Remarks

2 Amendments to the Claims

3 Claims 1, 10 and 12 have been amended as indicated above. Specifically,  
4 claims 1, 10 and 12 have been amended to recite, in respectively varying language,  
5 limitations drawn to a consumption detecting device or devices. Support for the  
6 amendments to claims 1, 10 and 12 can be found at least on page 11, line 14 to  
7 page 15, line 24 of the Specification, and Fig. 1 of the Drawings, as respectively  
8 originally filed. No new matter has been added by way of the amendments to the  
9 claims.

10  
11 Remarks Regarding the Drawings

12 The Examiner has asserted that the drawings as filed are considered informal,  
13 but are acceptable for examination and publication purposes (page 2 of Office  
14 Action). The Applicants note that the Examiner has not formally objected to the  
15 drawings, nor has the Examiner provided specific grounds for the assertion of  
16 informality. As such, the Applicants provide no proposed corrections or amendments  
17 to the drawings at this time. Further, the Applicants contend that the drawings are in  
18 fact formal, fully comply with the standards set forth in of 37 C.F.R. 1.84, and  
19 therefore request that they be accepted as formal.

20  
21 Rejections of Claims under 35 U.S.C. § 101

22 Claims 1-2, 5-8, 10-13 and 15 have been rejected under 35 U.S.C. § 101, on  
23 grounds that said claims are directed to non-statutory subject matter. Specifically,  
24 the Examiner has asserted that claims 1-2, 5-8, 10-13 and 15, as originally drafted,  
25 "are not limited by language within the technological arts" (page 2 of Office Action).  
However, the Examiner has admitted that said claims (i.e., 1-2, 5-8, 10-13 and 15)  
are "limited by language to a useful, concrete and tangible application" (page 3 of

Office Action). Respectfully, the Applicants find the Examiner's phrasing in support of the § 101 rejections to be vague. The Applicants believe the Examiner is asserting that claims 1-2, 5-8, 10-13 and 15 (as originally filed) are drawn to "mental steps" or "algorithms". However, no admission is made that the Applicants agree with any such assertion. In fact, the Applicants note that the "technological arts" doctrine has not been used the inception of the CAFC in 1982. Further, *In re Johnston*, 183 USPQ 172 (C.C.P.A. 1974) states that, "Record-keeping *machine* systems are clearly within the 'technological arts'." Surely, a "method to promote the use of consumables in an *imaging device*" is equally within the 'technological arts'.

Notwithstanding, independent claims 1, 10 and 12 have been amended as indicated above. The Applicants contend that claims 1, 10 and 12, as amended, include respective recitations that are limited by language within the technological arts. Furthermore, and as admitted by the Examiner, claims 1, 10 and 12 (as amended) are limited by language to a useful, concrete and tangible application.

In view of the foregoing, the Applicants believe that independent claims 1, 10 and 12, as amended, recite statutory subject matter in accordance with 35 U.S.C. § 101, and are patentable. Claims 2 and 5-8, 11, and 12-13 and 15 depend (directly or indirectly) from claims 1, 10 and 12, as amended, respectively. Thus, the Applicants assert that claims 2, 5-8, 11, 12-13 and 15 respectively include all of the features and limitations of their respective base claims and, as such, recite statutory subject matter and are patentable. The Applicants respectfully request that the respective § 101 rejections of claims 1-2, 5-8, 10-13 and 15 be withdrawn.

#### Rejection of Claims under 35 U.S.C. § 103

Claims 1-36 have been rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 5,401,946 to Weinblatt ("Weinblatt"). The Examiner has taken Official Notice with respect to claims 5, 6, 8, 9, 19, 20, 23 and 24. Furthermore, the

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1 Applicants believe the Examiner has taken Official Notice with respect to claims 29,  
2 30, 31, 32 and 35, as well.

3 The Applicants respectfully disagree that claims 1-36 are obvious over  
4 Weinblatt.

5 As a starting point, MPEP 706.02(j) states:

6 "[t]o establish a *prima facie* case of obviousness, three basic  
7 criteria must be met. First, there must be some suggestion or  
8 motivation, either in the cited references themselves or in the  
9 knowledge generally available to one of ordinary skill in the art, to  
10 modify the reference or to combine the reference teachings. Second,  
11 there must be a reasonable expectation of success. Finally, the prior  
12 art reference (or references when combined) must teach or suggest  
13 all the claim limitations. The teaching or suggestion to make the  
14 claimed combination and the reasonable expectation of success  
15 must both be found in the prior art and not based on applicant's  
16 disclosure."

17 (Emphasis added.)

18 In regard to claims 1-36, the Applicants will provide specific respective  
19 arguments in support of the allowability of independent claims 1, 10, 12, 17, 25 and  
20 33, as respectively amended. As it is axiomatic that any claim depending from an  
21 allowable base is also allowable, the Applicants do not believe it necessary to  
22 provide arguments in favor of each and every dependent claim.

#### 23 24 Claim 1

25 The Applicants assert that independent claim 1, as amended (and claims 2-9  
that depend therefrom), are allowable. With respect to claim 1, as amended, that  
claim includes the following features and limitations:

1 A method to promote the use of consumables in an imaging  
2 device including a consumption detecting device, comprising:

3 detecting consumption of a consumable using the consumption  
4 detecting device; and

5 when the consumption of a predefined quantity of the  
6 consumable has been detected, rewarding a user of the imaging  
7 device.

8 (Emphasis added.)  
9

10 Weinblatt fails to teach or suggest detecting consumption of a consumable,  
11 as recited in combination with the other features and limitations of claim 1, as  
12 amended. In turn, Weinblatt fails to teach or suggest detecting consumption of a  
13 consumable using [a] consumption detecting device, as recited in combination with  
14 the other features and limitations of claim 1, as amended. Furthermore, Weinblatt  
15 fails to teach or suggest rewarding a user of [an] imaging device when the  
16 consumption of a predefined quantity of [a] consumable has been detected, as  
17 recited in combination with the other features and limitations of claim 1, as amended.

18 It is essential to understand that Weinblatt fails to teach or suggest the  
19 detecting of any sort of consumption, in any way, as Weinblatt is concerned with the  
20 *purchase* of goods or services. In the interest of further understanding this important  
21 distinction, the Applicants provide the two following definitions:

22 Consume: "1. to destroy or expend by use; use up."

23 Purchase: "1. to acquire by the payment of money or its equivalent; buy."

24 Random House Webster's College Dictionary, pgs. 293 and 1095, Random  
25 House, Inc., 1991, ISBN 0-679-41410-X.

Thus, as used in instant claim 1, as amended, the phrase detecting  
consumption of a consumable means to detect the *expenditure* or *utilization* of a

1 consumable, wherein a user is rewarded once the consumption (i.e., use,  
2 destruction and/or expenditure) of a predefined quantity of that consumable has  
3 been detected.

4 On the other hand, Weinblatt is directed to apparatus and methods of  
5 rewarding a volunteer for their participation in an advertising data and purchase data  
6 gathering and analysis scheme (Abstract of Weinblatt). Under Weinblatt, such a  
7 volunteer uses one or more apparatus (5, 7, 9) to detect and record various  
8 advertisements that the volunteer is exposed to resulting in "ad exposure" data  
9 (Fig. 1; Col. 6, line 34 to Col. 8, line 25 of Weinblatt). Thereafter, a receipt or other  
10 record (13) of *purchases* made by the volunteer are correlated with the "ad  
11 exposure" data via a computer (4) and/or home unit (41) (Fig. 1; Col. 10, lines 23-46;  
12 Col. 3, lines 47-50 of Weinblatt). Once the volunteer provides record proof of a  
13 certain *purchase* or category of *purchases*, the apparatus issues a reward in the  
14 form of a coupon or other incentive (Col. 13, line 55 to Col. 14, line 68 of Weinblatt).

15 In any case, Weinblatt is concerned with data related to the *purchase* of  
16 goods or services. Weinblatt is completely devoid of any teachings or suggestions  
17 related to the *consumption* of anything, after it has been purchased (or before any  
18 future purchase, for that matter). The act of *purchasing* an item (or items) is *not* the  
19 same as *consuming* that item (or items). In fact, under Weinblatt, it is possible for a  
20 volunteer to be rewarded for items that are simply purchased and stockpiled, never  
21 to be consumed at all. Put another way, Weinblatt neither expresses nor implies any  
22 teachings or suggestions toward the *utilization* of an item, only its *acquisition*. This  
23 is not the same as the present invention as recited by claim 1, as amended.

24 Thus, Applicants assert that Weinblatt fails to render obvious the invention as  
25 recited by claim 1, as amended, for at least the following reasons:

- 1) Weinblatt fails to teach or suggest all of the limitations as recited by claim  
1, as amended; and

1           2) Weinblatt fails to teach or suggest the combination of those limitations as  
2           recited by claim 1, as amended.

3           The § 103 rejection of claim is unsupportable in view of the requirements of  
4 MPEP 706.02(j), and should be withdrawn.

5           In view of the foregoing, the Applicants assert that claim 1, as amended, is  
6 allowable. As claims 2-9 depend from allowable claim 1, as amended, they too are  
7 allowable at least by virtue of their dependence upon an allowable claim 1, as well  
8 as their own respective patentable distinctions. The Applicants further assert that  
9 the corresponding Official Notice as taken by the Examiner with respect to claims 5,  
10 6, 8 and 9 is moot in view of the axiomatic allowability thereof.

11  
12 Claim 10

13           The Applicants assert that independent claim 10, as amended (and claim 11  
14 that depends therefrom), are allowable. With respect to claim 10, as amended, that  
15 claim includes the following features and limitations:

16  
17           A method to promote the use of a plurality of consumables in an  
18 imaging device including one or more consumption detecting devices,  
19 comprising:

20           detecting consumption by the imaging device of individual  
21 quantities of the plurality of consumables using at least one of the one  
22 or more consumption detecting devices;

23           when a predefined collective quantity of the individual quantities  
24 of consumables has been detected, rewarding a user of the imaging  
25 device with a reward defined by a value; and

1           basing the value of the reward on the individual quantities of  
2           each consumable that has been detected as being consumed by the  
3           imaging device.

4           (Emphasis added.)

5  
6           Weinblatt fails to teach or suggest an imaging device including one or more  
7 consumption detecting devices, as recited in combination with the other features of  
8 instant claim 10, as amended. Also, Weinblatt fails to teach or suggest detecting  
9 consumption by the imaging device of individual quantities of [a] plurality of  
10 consumables using at least one of the one or more consumption detecting devices,  
11 as recited in combination with the other features of instant claim 10, as amended.  
12 Also, Weinblatt fails to teach or suggest rewarding a user of the imaging device with  
13 a reward defined by a value when a predefined collective quantity of the individual  
14 quantities of consumables has been detected, as recited in combination with the  
15 other features of instant claim 10, as amended.

16           Again, Weinblatt is directed to providing a reward to a volunteer for their  
17 cooperation in a data gathering exercise, wherein such a reward is a function of the  
18 items *purchased* by that volunteer (Abstract of Weinblatt). Weinblatt certainly does  
19 not teach, suggest or motivate detecting consumption by the imaging device of  
20 individual quantities of the plurality of consumables using at least one of the one or  
21 more consumption detecting devices, so as to reward a user of the imaging device  
22 with a reward defined by a value when [consumption of] a predefined collective  
23 quantity of the individual quantities of consumables has been detected, as recited by  
24 instant claim 10, as amended.

25           In view of these and other substantive deficiencies of Weinblatt, and in further  
view of substantially analogous arguments put forth above in support claim 1, as  
amended, the Applicants assert that instant claim 10, as amended, is allowable. As

1 claim 11 depends from allowable claim 10, it is axiomatic that claim 11 is also  
2 allowable for at least this reason.

3  
4 Claim 12

5 The Applicants assert that independent claim 12, as amended (and claims  
6 13-16 that depend therefrom), are allowable. With respect to claim 12, as amended,  
7 that claim includes the following features and limitations:

8  
9 A method to promote the use of a consumable in a plurality of  
10 imaging devices, each of the plurality of imaging devices including a  
11 consumption detecting device, the method comprising:

12 detecting consumption of individual quantities of the  
13 consumable by each of the imaging devices using the consumption  
14 detecting device of each imaging device; and

15 when a predefined collective quantity of the individual quantities  
16 of consumable has been detected, generating a reward.

17 (Emphasis added.)  
18

19 Weinblatt fails to teach or suggest a plurality of imaging devices, each of the  
20 plurality of imaging devices including a consumption detecting device, as recited in  
21 combination with the other features of instant claim 12, as amended. Also, Weinblatt  
22 fails to teach or suggest detecting consumption of individual quantities of the  
23 consumable by each of the imaging devices using the consumption detecting device  
24 of each imaging device, as recited in combination with the other features of instant  
25 claim 12, as amended. Furthermore, Weinblatt fails to teach or suggest generating  
a reward when a predefined collective quantity of the individual quantities of  
consumable has been detected, as recited in combination with the other features of



1 instant claim 12. The Applicants assert that the § 103 rejection of instant claim 12,  
2 as amended, is invalid in view of the deficiencies of Weinblatt and in further view of  
3 the supportive requirements of MPEP 706.02(j), and such rejection should be  
4 withdrawn.

5 For at least these reasons, the Applicants assert that claim 12, as amended,  
6 is allowable. As claims 13-16 depend from allowable claim 12, as amended, it is  
7 axiomatic that claims 13-16 are also allowable for at least this reason.

8  
9 Claim 17

10 The Applicants assert that independent claim 17 (and claims 18-24 that  
11 depend therefrom) are allowable. With respect to claim 17, that claim includes the  
12 following features and limitations:

13  
14 Apparatus for providing the user of an imaging device, which is  
15 configured to consume a consumable, with a reward based on a  
16 consumption of the consumable by the imaging device, comprising:

17 a consumable consumption detection device configured to  
18 detect quantities of the consumable that are consumed by the imaging  
19 device and to generate consumption signals in response thereto;

20 an electronic writeable memory device;

21 an electronic readable memory device configured to contain a  
22 user reward message;

23 a processor configured to receive the consumption signals and  
24 to store a consumption value in the electronic writeable memory  
25 device, the consumption value being a function of the received  
consumption signals, the processor further configured to read from the  
readable memory device the user reward message when the

1 consumption value is at least equal to a predetermined reward value,  
2 and to visually display the reward message to the user.

3 (Emphasis added.)

4  
5 Weinblatt fails to teach or suggest a consumable consumption detection  
6 device configured to detect quantities of the consumable that are consumed by the  
7 imaging device and to generate consumption signals in response thereto, as recited  
8 in combination with the other features of instant claim 17. Furthermore, Weinblatt  
9 fails to teach or suggest a processor configured to receive the *consumption* signals  
10 and to store a *consumption value* in the electronic writeable memory device, as  
11 recited in combination with the other features of claim 17. Further still, Weinblatt fails  
12 to teach or suggest visually displaying an award message to a user when the  
13 *consumption* value is at least equal to a predetermined reward value, as recited in  
14 instant claim 17.

15 Weinblatt, as explained above, is directed to issuance of rewards in response  
16 to *purchase* data, wherein the purchase data is eventually analyzed in view of data  
17 reflecting exposure of that purchaser (volunteer) to a variety of advertising media  
18 (Abstract of Weinblatt). Weinblatt completely fails to teach, suggest or motivate  
19 rewarding a user in accordance with the detected *consumption* of a predetermined  
20 quantity of a consumable, in any context. As a direct result, Weinblatt fails to teach,  
21 suggest or motivate the *generation of consumption signals* in response to such  
22 consumption and directed to providing the reward to the user. Weinblatt is totally  
23 disinterested in the *consumption* of anything, and thus provides no teaching or  
24 suggestion directed to *detecting* any kind of *consumption*. Any use of the word  
25 “detecting” (or its equivalents) under Weinblatt extends no further than “detecting”  
the *purchase* of a product or products. This is not the same as the present invention  
as recited by instant claim 17.

1 For at least these reasons, the Applicants assert that claim 17 is allowable.  
2 As claims 18-24 depend from allowable claim 17, it is axiomatic that claims 18-24  
3 are also allowable for at least this reason. The Applicants further assert that the  
4 corresponding Official Notice as taken by the Examiner with respect to claims 19, 20,  
5 23 and 24 is moot in view of the axiomatic allowability thereof.

6  
7 Claim 25

8 The Applicants assert that independent claim 25, and claims 26-32 that  
9 depend therefrom, are allowable. With respect to claim 25, that claim includes the  
10 following features and limitations:

11  
12 A computer-readable storage medium for use by a processor  
13 configured to execute computer executable instructions to generate a  
14 reward message in response to the consumption of a consumable by  
15 an imaging device, the medium holding computer executable  
16 instructions to:

17 detect consumption of the consumable; and  
18 when the consumption of a predefined quantity of the  
19 consumable has been detected, generate a reward message.

20 (Emphasis added.)  
21

22 As argued above, Weinblatt fails to teach or suggest the consumption of a  
23 consumable by an imaging device, in any context, as recited by instant claim 25.  
24 Furthermore, Weinblatt fails to teach or suggest causing a processor to detect  
25 consumption of the consumable, as recited in combination with the other features of  
instant claim 25. In view of the deficiencies of Weinblatt, and in further view of the  
substantially analogous arguments made above in support of claims 1, 10, 12

1 and 17, the Applicants assert that the § 103 rejection of claim 25 is unsupportable  
2 and must be withdrawn.

3 For at least these reasons, the Applicants assert that instant claim 25 is  
4 allowable. As claims 26-32 depend from allowable claim 25, it is axiomatic that  
5 claims 26-32 are also allowable for at least this reason. The Applicants further  
6 assert that the corresponding Official Notice as taken by the Examiner with respect  
7 to claims 29, 30, 31 and 32 is moot in view of the axiomatic allowability of dependent  
8 claims 26-32.

9  
10 Claim 33

11 The Applicants assert that independent claim 33, and claims 34-36 that  
12 depend therefrom, are allowable. With respect to claim 33, that claim includes the  
13 following features and limitations:

14  
15 A computer-readable storage medium for use by a processor  
16 configured to execute computer executable instructions to generate a  
17 reward message in response to the consumption of at least one  
18 consumable by an imaging device, the medium holding computer  
19 executable instructions to:

20 receive consumption signals from a consumption detection  
21 device configured to detect quantities of at least one of the  
22 consumables which are consumed by the imaging device;

23 calculate a consumption value as a function of the received  
24 consumption signals and store the consumption value in a readable  
25 memory device;

determine when the consumption value is at least a  
predetermined reward value;

1           generate the reward message when the consumption value is at  
2           least the predetermined reward value and;  
3           visually display the reward message.  
4           (Emphasis added.)

5  
6           Weinblatt fails to teach or suggest receiving consumption signals from a  
7           consumption detection device configured to detect quantities of at least one of the  
8           consumables which are consumed by the imaging device, as recited in combination  
9           with the other features of instant claim 33. Also, Weinblatt fails to teach or suggest  
10          calculating a consumption value as a function of the received consumption signals  
11          and store the consumption value in a readable memory device, as recited by instant  
12          claim 33. Furthermore, Weinblatt fails to teach or suggest generating [a] reward  
13          message when the consumption value is at least the predetermined reward value, as  
14          recited in combination with the other features and limitations of claim 33.

15          Weinblatt is completely disinterested in, and is totally devoid of, any teachings  
16          or suggestions directed to:

- 17          A) A consumption device configured to detect quantities of a consumable  
18             *consumed* by an imaging apparatus; or  
19          B) Receiving consumption signals from the consumption device; or  
20          C) Calculation of a *consumption value* as a function of the consumption  
21             signals; or  
22          D) Generation of a reward message when the *consumption* value is at least a  
23             predetermined award value.

24          In view of the substantial deficiencies of Weinblatt, the Applicants assert that  
25          the § 103 rejection of claim 33 is unsupportable in view of MPEP 706.02(j).

            For at least these reasons, the Applicants assert that claim 33 is allowable.  
As claims 34-36 depend from allowable claim 33, it is axiomatic that claims 34-36

1 are also allowable for at least this reason. The Applicants further assert that the  
2 corresponding Official Notice as taken by the Examiner with respect to claim 35 is  
3 moot in view of the axiomatic allowability of dependent claims 34-36.  
4

5 Summary

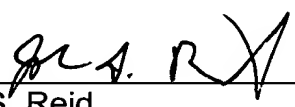
6 The Applicants believe that this response constitutes a full and complete  
7 response to the Office Action. In view of the foregoing, the Applicants respectfully  
8 request reconsideration on the merits of claims 1-36, as respectively amended, in  
9 favor of timely allowance.  
10

11 The Examiner is respectfully requested to contact the below-signed  
12 representative if the Examiner believes this will facilitate prosecution toward  
13 allowance of the claims.  
14

15 Respectfully submitted,

16 Travis J. Parry and Robert Seek

17  
18 Date: April 11, 2005

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